who here are the employers of the plaintiff or the exporter of the goods in question.

Regulation 83(1) makes it quite clear that the liability of the PSA is not transferred to the hirer but the hirer is required thereunder to indemnify the PSA against any such claim like the one preferred by the plaintiff. For these reasons I rule against the PSA on this submission by their counsel. In the result the PSA shall be liable for 50% of the damages to be assessed by the Registrar to the plaintiff for the loss and damages suffered by him here. The PSA shall also be liable for the costs of this action to the plaintiff.

Claim allowed.

Solicitors: *Y.M. Jumabhoy & Co.; Chan, Soh & Co.*

KARTING CLUB OF SINGAPORE v. DAVID MAK & ORS.

[O.C.J. (Chua J.) September 19, 1984]

[Singapore – Origination Summons No. 146 of 1984]

Societies – Unincorporated member club – Capacity to sue or be sued – Automatic retirement from General Committee – Expulsion – Co-opting of Committee member – Validity – Payment of costs personally.

The main issue in this case is whether the Karting Club of Singapore, being an unincorporated member club, can be the plaintiff in this action. The Club sought *inter alia*, a declaration that under the provisions of Rule 8 of the Constitution and Rules of the Club, the defendants were deemed to have automatically retired from being officers and/or General Committee members of the Club.

Between October 1983 and January 1984 no General Committee meetings had been convened to attend to the affairs of the Club. The Chairman of the Club convened a meeting on February 5, 1984 in which one General Committee member was present. At this meeting "it was deemed that the defendants were automatically retired from the General Committee" and three persons were co-opted to fill certain vacancies. The defendants maintained that they were members of the General Committee and had not instructed certain solicitors to act for the Club. The defendants' contentions are (1) that there is no evidence that the defendants failed to attend three consecutive meetings of the General Committee called by the Chairman or the Secretary and (2) that the present General Committee is not properly constituted and therefore has no authority to bring this action.

Held: (1) an unincorporated member club, not being a partnership or legal entity, cannot sue or be sued in the name of the club. The Karting Club of Singapore is unincorporated and consequently cannot be made a plaintiff to this action;

(2) there is no evidence that notice of the calling of the meeting of February 5, 1984 was served on any of the defendants. The defendants had not breached Rule 8 and their expulsion from the General Committee was invalid. Consequently the purported appointment of the three members into the General Committee on February 5, 1984 was inoperative;

(3) the Originating Summons must be dismissed with costs. As the action was initiated by the Chairman in the name of the Club he must personally pay the costs of the defendants.

Case referred to:

(1) *London Association for Protection of Trade* v. *Greenlands, Ltd.* [1916] 2 A.C. 15.

ORIGINATING SUMMONS.

P. Suppiah for the plaintiff.

Miss Wong Juan Swee for the defendants.

Cur. Adv. Vult.

Chua J.: The plaintiff, The Karting Club of Singapore, by this Originating Summons, seeks –

(a) A declaration that under the provisions of Rule 8 of the Constitution and Rules of the Club the defendants, David Mak (Honorary Secretary), George Tan (Honorary Treasurer), Maisie Teo (General Committee Member) and Richard Teo (General Committee Member), are deemed to have automatically retired from being officers and/or General Committee Members of the Club;

(b) An order that the defendants forthwith deliver up to the Club, *inter alia*, all account books, receipt books and all payment vouchers of the Club;

(c) An account of monies expended by the defendants on behalf of the Club;

(d) An injunction restraining the defendants from representing that they are still members of the General Committee of the Club.

The Club is a duly constituted member Club registered with the Registrar of Societies.

The Chairman of the Club is Anthony Wee Soon Kim (A.S.K. Wee) and he with all the defendants and Dennis Kwok formed the General Committee.

It is not in dispute that between October 1983 and January 1984 no General Committee meetings

had been convened to attend to the affairs of the Club.

The Chairman convened a meeting on February 5, 1984, in which Dennis Kwok was present. At this meeting "it was deemed that the defendants were automatically retired from the General Committee" and arising from the meeting the following persons were co-opted to fill the vacancies:–

(a) Yip Ah Mow – Treasurer

(b) Malcolm Miller – Secretary

(c) Astern Tan – Committee Member

By letter of February 6, 1984, the Chairman communicated the result of the meeting of February 5, 1984, to the first defendant.

On behalf of the newly co-opted General Committee members, the Chairman instructed solicitors to seek the return of the properties of the Club from the defendants. The solicitors, P. Suppiah & Co. duly wrote to the defendants on February 10, 1984.

By their letter of February 17, 1984, the defendants maintained that they were members of the General Committee and had not instructed P. Suppiah & Co. to act for the Club.

On February 24, 1984, P. Suppiah & Co. took out this Originating Summons.

The defendants' contentions are (1) that there is no evidence that the defendants failed to attend three consecutive meetings of the General Committee called by the Chairman or by the Secretary and (2) that the present General Committee is not properly constituted and therefore has no authority to bring this action.

Rule 5 of the Constitution and Rules of the Club provides that "The Club shall be governed by a General Committee consisting of the Chairman, Vice Chairman, Honorary Secretary, Honorary Treasurer, and not less than three members" and that "Vacancies occasioned by the temporary absence of an Officer or Member of the General Committee may be temporarily filled by the General Committee."

Rule 8 provides:

"The General Committee shall meet whenever summoned by the Secretary or by the Chairman (who, with the Vice Chairman shall be elected at the first meeting after the A.G.M. in each year, or on the occurence of a vacancy), and in any case at least once in every three months. They shall determine the places and times of their meetings. Four Members shall be a quorum, and all questions shall be decided by a majority of the Members present, the Chairman having a casting as well as a deliberative vote. Members of the General Committee not attending three consecutive Committee meetings, without adequate reason being given to the Secretary shall automatically be retired from the General Committee."

Rule 14 provides:

"Correct books and accounts shall be kept showing the financial affairs and intromissions of the Club. The General Committee shall prepare a full statement of the accounts, showing receipts and expenditure of the Club for the year ending December 31, immediately preceding, which statement, with the Auditors report, shall be issued to the Members along with a report of the work done by the Club during the past year, not less than seven clear days before the day fixed for the A.G.M. in each year."

A.S.K. Wee, the Chairman, deposed to the following:

(a) He wrote to the Secretary, the first defendant, on October 4, 1983, in these terms –

"With reference to my last discussion with you, I am again sorry to note that no attempts have been made to convene a General Committee Meeting to attend to outstanding matters.

I am also disappointed to note that despite many requests from me nothing has been done to have the Club's Accounts audited.

When we last spoke you were asked to let me have the account books for my perusal.

I have been referred to a letter from Ronnie Goh's lawyers which require attention. Enclosed is a copy of letter.

I shall be grateful if you would be good enough to convene a General Committee Meeting soon.

Also, have you looked into the possibility of getting more G.C. Members. As things stand it would appear that for some reason or another attempts to convene a G.C. Meeting has been unsuccessful."

(b) He wrote to the third defendant on October 18, 1983, informing her, *inter alia*, that several attempts to convene meetings to attend to outstanding matters of the Club were unsuccessful.

(c) He wrote a letter to the second defendant on the same day and pointed out that he had spoken to the second defendant on more than three occasions to convene a General Committee meeting without success.

(d) On January 27, 1984, he forwarded a copy of a Notice of Assessment from the Inland Revenue Department to the first defendant with the specific request to obtain all the necessary account

books, receipts and vouchers *etc.* for the purpose of auditing same and to complete the Income Tax Form within seven days, failing which solicitors would be instructed to take the necessary steps to ensure that the Form was duly submitted and that proper accounts were rendered to members of the Club.

(e) He received a copy letter dated January 31, 1984, from the Singapore Sports Council addressed to the first defendant giving notice to terminate the agreement to park a container at the Wonderland Car Park "E" because numerous reminders to pay outstanding fees were ignored and attempts to contact the first defendant had not been successful.

(f) The Club is compelled to seek the court's aid to determine as to whether by reason of the defendants' continued refusal as aforesaid they might be deemed to have automatically retired under the provisions of Rule 8.

Dennis Kwok deposed to the following:

(a) He shared the Chairman's concern that no General Committee meetings were convened ever since October 1983 to attend to the affairs of the Club.

(b) He called on the third defendant on October 19, 1983, when he was unreasonably abused. The sole object of his visit was to persuade the third defendant and her husband, the fourth defendant, to convene a committee meeting to attend to the affairs of the Club especially on the matters involving the Club's accounts and to attend to the Notice from the Inland Revenue Department.

(c) By reason of the said attitude of the defendants the Club was placed in serious jeopardy as follows:

(1) The Club was liable to be fined by the Inland Revenue Department.

(2) The Club had not been able to collect subscription fees from members for the current year 1984.

(3) The Club had not been able to hold its Annual General Meeting by reason of the accounts not having been audited for presentation to members.

(4) The Club was not able to organise competitions and social gatherings and issue Newsletters to its members.

(d) All attempts for the last four months to manage the affairs of the Club had not been successful by reason of the defendants' continued refusal.

The first defendant in his affidavit deposed:

(1) As to the Chairman's allegations that he and the other defendants had refused to convene General Committee Meeting, it was the Chairman who had put difficulties in the way. On two occasions he had personally gone to the Chairman's house to try and fix suitable dates to discuss how to improve on the "International Race Meet of 1984" but the Chairman insisted on weekday nights whereas all the other Committee members wanted Sunday afternoons at 2 p.m. at the Kallang Race Tracks because they were employees and the only time when they were free was on a Sunday.

(2) The Club's address for correspondence was P.O. Box 166, Singapore 9137, but the Chairman acting on his own initiative had all mail of the Club redirected to his own law firm address at Cecil Street and thus prevented the General Committee members from having access to the mail of the Club.

(3) In respect of the Notice of Assessment from the Inland Revenue Department the full copy of the Notice of Assessment was not sent to him.

(4) The audit of the Club's accounts had been completed by an auditor selected by the General Committee.

(5) In respect of the parking fees for the container at the Wonderland Car Park "E" he had all along been in active negotiations with the Singapore Sports Council and the sponsors for the container to pay the parking fees.

The second defendant deposed to the following:

(1) The accounts of the Club for the year 1983 for which the current General Committee were responsible had been audited.

(2) The income tax return form for the current year mentioned by the Chairman was still with the Chairman who had refused to release it for

completion and return to the Inland Revenue Department. He had instructed the appointed auditor to apply for an extension of time to file the tax returns.

(3) He had always been willing and able to attend Committee Meeting if fixed on a Sunday afternoon.

The third defendant denied she abused Dennis Kwok. She deposed that Dennis Kwok came to her house to demand for the Club's account books. He was told that they were not with her. However, he was not a Committee Member and was not entitled to take the books with him.

An unincorporated member club, not being a partnership or legal entity, cannot sue or be sued in the club name (see *London Association for Protection of Trade* v. *Greenlands, Ltd.*)[1] The Karting Club of Singapore is unincorporated and consequently cannot be made a plaintiff to this action.

This should dispose of the matter. Since arguments were addressed to me as to the validity of the expulsion of the defendants from the General Committee I will deal with it and express my views.

Before a member of the General Committee can automatically be retired from the General Committee he must first of all have failed to attend three consecutive Committee meetings and secondly that he has failed to give adequate reasons to the Secretary.

Now what had happened in this case? The Chairman requested the Secretary to convene a meeting of the General Committee on several occasions which the Secretary failed to do. The Chairman himself could have convened a meeting when the Secretary failed to convene a meeting, but he did not do so between October 1983 and January 1984 until February 5, 1984. There is no evidence that notice of the calling of that meeting was served on any of the defendants. Consequently only the Chairman and Dennis Kwok were present. At this meeting "it was deemed that the defendants were automatically retired from the General Committee" and the Chairman proceeded to co-opt three members into the General Committee.

It is clear that the defendants had not breached Rule 8 and that their expulsion from the General Committee was invalid. Consequently the purported appointment of three members into the General Committee on February 5, was inoperative.

For these reasons this Originating Summons must be dismissed with costs. As this action was initiated by the Chairman in the name of the Club he must personally pay the costs of the defendants.

Application dismissed.

Solicitors: *P. Suppiah; Wong Juan Swee.*

KWA HOCK KEE & ANOR. v. KWA KIAN SENG

[A.C.J. (Thean J.) August 30, 1984]
[Singapore – Suit No. 4287 of 1982]

Probate and Administration – Claim by administrators for damages for negligence – Order for grant of letters of administration – Schedule to grant omitting claim for earnings for lost years – Such claim included subsequent to issue of writ – Whether claim maintainable by administrators – Estate Duty Act (Cap. 137), s.38 – Civil Law Act (Cap. 30), ss. 8 & 12 – Probate and Administration Act (Cap. 23), ss. 2, 35(1) & 37.

Tort – Damages for loss of earnings for lost years – Whether excessive.

The deceased died in a road accident while travelling in a motor car driven by his brother, the defendant. The deceased's parents, the plaintiffs, claimed against the defendant as the administrators of the estate of the deceased for damages for negligence for the benefit of the estate under section 8 of the Civil Law Act and for the benefit of themselves as dependants of the deceased under section 12 of the Act.

On October 22, 1981 the District Court made an order for the grant to the plaintiffs of letters of administration of the estate of the deceased. On February 2, 1982 the grant was extracted. The Schedule of assets attached to the grant contains 4 items of assets of the deceased passing on his death, including a claim for loss of expectation of life, but does not contain a claim for damages for loss of earnings for the "lost years", which is the main issue in this case. The plaintiff took out the writ on October 7, 1982, claiming *inter alia* loss of earnings for the lost years. Subsequent to this, the plaintiffs filed a corrective affidavit with the Commissioner of Estate Duties in respect of the claim for the loss of earnings for the lost years, and a supplementary schedule of assets containing such a claim was issued by the Commissioner.

Judgment in default of defence was entered against the defendant. The Senior Assistant Registrar awarded *inter alia* a sum of $75,000 for loss of earnings for the lost years based on a multiplier of 18 and a multiplicand of $350 per month.